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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**

20
21 IN RE: FACEBOOK, INC., CONSUMER PRIVACY
22 USER PROFILE LITIGATION

MDL No. 2843

Case No. 3:18-md-02843-VC

**CO-LEAD COUNSEL'S
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED PURSUANT TO
LOCAL RULE 3-12**

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THIS DOCUMENT RELATES TO:
ALL ACTIONS

Judge: Hon. Vince Chhabria

Pursuant to Civil Local Rules 3-12 and 7-11, Co-Lead Counsel move the Court to relate three newly-filed actions to *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, No. 3:18-cv-02843-VC. The action Co-Lead Counsel seek to relate are (1) *Staggs, et al. v. Facebook, Inc.*, No. 3:18-cv-05754-EDL (N.D. Cal. Sept. 19, 2018); (2) *Kmieciak, et al. v. Facebook, Inc.*, No. 3:18-cv-05752-DMR (N.D. Cal. Sept. 19, 2018); and (3) *Miller, et al., v. Facebook, Inc.*, No. 3:18-cv-05770 (N.D. Cal. Sept. 20, 2018). The *Staggs*, *Kmieciak*, and *Miller* complaints are attached as Exhibits 1, 2, and 3, respectively, to the Declaration of Lesley E. Weaver (“Weaver Decl.”).

STATEMENT OF FACTS

On July 27, 2018, this Court ordered that Plaintiffs’ Consolidated Complaint In this multi-district litigation (“MDL”), *In re: Facebook, Inc. Consumer Privacy User Profile Litigation*, should be filed by September 21, 2018. ECF No. 103. On September 19, 2018 Plaintiffs Mitch Staggs, Shelly Forman, and Sandra Adkins (the “*Staggs* Plaintiffs”) and Plaintiffs Ashley Kmiecik, Jonathan Pelc, and John Doe (the “*Kmieciak* Plaintiffs”) filed their initiating complaints in this MDL. On September 20, 2018 Plaintiffs Ian Miller, William Lloyd, Dustin Short, Paige Grays, Rachael Reed, Patrick Detscher, Sandy McEuen, Sean Day, Fr. Bobby Hall, and Bridget Peters (the “*Miller* Plaintiffs”) filed their initiating complaint. It was necessary for the *Staggs*, *Kmieciak*, and *Miller* Plaintiffs to file their complaints in order to participate in the MDL. *See* 28 U.S.C. § 1407(a) (MDL proceedings concern the consolidation of pre-existing “civil actions involving one or more common questions of fact”). *In re Mortg. Elec. Registration Sys. Litig.*, MD-09-02119-PHX-JAT, 2016 WL 3931820, at *5 (D. Ariz. July 21, 2016) (“A plaintiff may not unilaterally add actions in the MDL that have not been pending in federal court elsewhere or which were not transferred to the transferee court through the MDL process”).

ARGUMENT

Under Civil Local Rule 3-12, an “action is related to another when: (1) the actions concern substantially the same parties, property, transaction or event; and (2) it appears likely that there will be

1 an unduly burdensome duplication of labor and expense or conflicting results if the cases are
 2 conducted before different Judges.” Civil L.R. 3-12(a).

3 The *Staggs*, *Kmieciak*, and *Miller* Plaintiffs’ complaints should be deemed related because they
 4 concern the same Defendants, transactions, and events. The *Staggs*, *Kmieciak*, and *Miller* Plaintiffs
 5 raise claims relating to Facebook’s misuse of personal information that are substantially identical to
 6 the other claims that have been transferred to this Court. *See* Weaver Decl. Ex. 1 at ¶¶ 76–122
 7 (alleging violations of the Stored Communications Act, California’s right of publicity, California’s
 8 Unfair Competition Law, intrusion upon seclusion, and unjust enrichment); Weaver Decl. Ex. 2 at ¶¶
 9 111–176 (alleging violations of, *inter alia*, the Stored Communications Act, California’s Unfair
 10 Competition Law, intrusion upon seclusion); Weaver Decl. Ex. 3 at ¶¶ 83–122 (alleging violations of
 11 the Stored Communications Act, California’s right of publicity, California’s Unfair Competition Law,
 12 intrusion upon seclusion, and unjust enrichment). The *Staggs*, *Kmieciak*, and *Miller* complaints plead
 13 many of the same claims concerning the same subject matter as other complaints that have been
 14 consolidated into this MDL. *See, e.g., Schinder v. Facebook, Inc. et al.*, Case No. 5:18-cv-02571-VC
 15 (N.D. Cal. May 1, 2018), Compl. at ¶¶ 79–126 (alleging the substantially the same causes of action
 16 concerning the same factual allegations) (attached as Weaver Decl. Ex. 4). It is clear that relating the
 17 *Staggs*, *Kmieciak*, and *Miller* Plaintiffs’ complaints to this MDL is necessary to prevent “unduly
 18 burdensome duplication of labor and expense or conflicting results if the cases are conducted before
 19 different Judges.” Civil L.R. 3-12(a)(2).

20 CONCLUSION

21 Because the law and facts are substantially identical, Co-Lead Counsel respectfully ask the
 22 Court to order the *Staggs*, *Kmieciak*, and *Miller* actions related to *In re: Facebook, Inc. Consumer*
 23 *Privacy User Profile Litigation*, No. 3:18-cv-02843-VC.

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 25 DATE: September 20, 2018

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